

THE FUTURE OF IMPRISONMENT IN SCOTLAND: A CRITIQUE OF POLICY*

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Introduction

Commentators have long lamented the lack of any coherent set of policies for the Scottish Prison Service. Ten years ago, the *Report of the Committee of Inquiry into the United Kingdom Prison Services* (the May Report) concluded that 'the rhetoric of treatment and training had had its day and should be replaced'.⁽¹⁾ However, the Committee refused to espouse the concept of 'humane containment', which was favoured by most of the academic critics of rehabilitation⁽²⁾, on the grounds that this concept was far too negative to serve as the aim of imprisonment, and instead advocated its own concept of 'positive custody'. The Report had far-reaching implications for the Scottish Prison Service and the Scottish Office set up a number of Working Parties to formulate detailed policies in the light of its recommendations. However, there appeared to be little sense of urgency and, after several years, few of the Working Parties had reached the stage of producing a final report. Some of the interim and draft reports were leaked to the press but there were no new policy initiatives. Although this was a matter of considerable concern to a small band of prison reformers, political parties and the general public seemed largely indifferent.⁽³⁾

This situation lasted until 1985 when the first of two separate developments created a crisis for Scottish prisons and encouraged the government to adopt a greater sense of urgency. In 1985, there was a sharp upsurge in the inmate population. Between 1973 and 1984, the average daily inmate population in Scottish penal establishments exceeded 5,000 in only two years (1978 and 1983). In 1984, receptions into custody were the highest on record (18,985 on remand and 24,532 under sentence) and the average daily population rose to 5,273. Per head of population, the number of receptions into prison was the highest in Europe and the prison population was second only to that of Northern Ireland.⁽⁴⁾ In 1986, the average daily population was the highest ever recorded (5,588) although the number of receptions into custody fell slightly below the 1985 levels. In

1987, there was a further drop (of 2.5%) to 5,446 in the average population, with particularly sharp reductions in the number of fine-defaulters and young offenders. However, the number of prisoners serving determinate sentences of three years or more and the number serving life sentences increased by 7% to 1,247 and 356 respectively, the highest levels ever recorded.⁽⁵⁾

The second set of developments made the crisis far more acute. In 1986 and 1987 there was an unprecedented series of roof-top incidents in which prison officers were taken hostage and substantial damage was done to the fabric of several establishments.⁽⁶⁾ Although roof-top protests and taking incidents are not new phenomena in Scottish prisons, the frequency and scale of these incidents attracted a considerable degree of media interest to which the government felt it had to respond.

Several factors eased the pressure of increased inmate numbers on the establishments. Between 1986 and 1987, an extra 675 places were created with the completion of the refurbishment of Greenock Prison and the opening of Phase II of Shotts Prison. In addition, in 1987, the transfer of the establishments was changed to transfer under-utilised places from the young offender institution (YOI) system to the hard pressed establishments holding adult male long-term prisoners (LTPs). Under the plan 'Grand Design', 320 places were transferred to the adult LTPs at Shotts, Glenochil and Noranside YOIs became adult prisons and Greenock and Dumfries prisons became YOIs. However, the nature of the crisis confronting the prison service was such that a solution required a reallocation of establishments to the different sectors. In January 1988, the Secretary of State for Scotland announced his intention to publish a new corporate philosophy for the Scottish Prison Service⁽⁷⁾ and in 1988, the discussion paper *Custody and Care*⁽⁸⁾, which sets out a number of aims and objectives for the future management of penal establishments in Scotland, was published. A second discussion paper *Assessment and Control*⁽⁹⁾, which sets out the approach of the Scottish Prison Service towards the particular problems of 'violent and disruptive inmates', was published in October 1988.

In addition to the two discussion papers referred to above, a number of policy documents of note have been published. In October 1988, the government published a consultation paper on *Fines and Penalties Enforcement*⁽¹⁰⁾ which canvasses a number of proposals, including the experimental introduction of day fines, which could lead to a reduction in the number of fine defaulters who serve terms of imprisonment. In March 1989, the *Report of the Review Committee on Parole and Pardon Issues in Scotland* (the Kincaid Report)⁽¹¹⁾. Its principal recommendation – that parole should be restricted to prisoners serving sentences of more than five years who would become eligible when they had served

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sentence, and that prisoners serving shorter sentences would receive conditional remission at this point – should lead to a reduction in the amount of time spent in custody and thus in the prison population.

It should be noted that, at the time of writing (August 1989), the government has not yet issued its response to any of the four policy documents.⁽¹²⁾ In this article, we confine our attention to *Custody and Care* and to *Assessment and Control*. Our aims are fourfold: first, to briefly summarise the contents of these two policy documents; second, to critically assess them; third, to analyse the wider implications of and the contexts for them; and, fourth, to compare them with parallel policy developments in England and Wales. Our interest in these documents stems from research we have undertaken since 1985 on an Economic and Social Research Council funded study of administrative decision making in the Scottish Prison Service.⁽¹³⁾ Although that research has, in a very general way, informed our arguments in this paper, we do not report directly upon any of our substantive findings.

Summary of Contents and Proposals

Custody and Care (C & C) is divided into four main parts:

- (1) Task and responsibilities of the Scottish Prison Service (SPS)
- (2) Policy and priorities for inmates
- (3) Planning for individual establishments
- (4) Training and development of staff

We shall briefly examine each of these in turn.

(1) Task and responsibilities of the SPS

The paper reaffirms that the 'task' of the SPS is:

- ' (i) to keep in custody untried or unsentenced prisoners, and to ensure that they are available to be presented to court for trial or sentence;
- (ii) to keep in custody, with such degree of security as is appropriate, having regard to the nature of the individual prisoner and his offence, sentenced prisoners for the duration of their sentence or for such shorter time as the Secretary of State may determine in cases where he has discretion;
- (iii) to provide for prisoners as full a life as is consistent with the facts of custody, in particular making available the physical necessities of life; care for physical and mental health; advice and help with personal problems; work, education, skill training,

physical exercise and recreation; and opportunity to practice their religion;

- (iv) to promote and preserve the self-respect of prisoners;
- (v) to enable prisoners to retain links with family and community; and
- (vi) to encourage them to respond and contribute positively to society on discharge' (para.2.4)

C & C also makes clear that:

'The appropriate balance of elements of the task is a matter of judgment based on experience, specialised advice, perception of the risk or positive potential of inmates, and availability of facilities or resources' (para.2.12).

Although priority is given first to security and then to control, the balance between the various tasks and thus the aims and objectives of the SPS are still left open. This, in our view, is quite unsatisfactory. A statement of corporate philosophy which leaves such matters unresolved cannot provide a proper framework for day-to-day operations. C & C outlines the legal framework of imprisonment in Scotland and sets out proposals to produce a consolidation of the Prisons (Scotland) Act 1952 and subsequent amendments; and to amend and update the Prison (Scotland) Rules, which likewise date from 1952, and the Standing Orders derived from them. It also examines the alterations in prison capacity described above and introduces plans to keep the number of places for different types of prisoner under review.

(2) Policy and priority for inmates

C & C considers the nature of initial classification of long-term prisoners to establishments and examines the role of the National Classification Board.⁽¹⁴⁾ It proposes that 'regime prospectuses' be drawn up for every prison and made available to prisoners. It argues for the introduction of 'sentence planning' for all long-term inmates, saying that 'the aim is to get the individual to come to terms with his sentence and to complete it as peaceably and constructively as possible' (para.9.4) and that "sentence planning" in the sense of continuous assessment and dialogue with the inmate should begin immediately the sentence is known' (para.9.8). These proposals have important implications for *Assessment and Control*, as we shall demonstrate.

(3) Planning for individual establishments

To facilitate 'sentence planning' it is proposed that each establishment will produce a regime plan. In general, establishments will be kept in line with each other so as to ensure 'parity of regimes', i.e. as equal treatment of like prisoners as possible (Chapter 12).

(4) Training and development of staff

More and better staff training is proposed (Chapter 13) and the role of Governors and staff are set out (Chapter 14).

The later document *Assessment and Control* (A & C) consists of three main parts:

- (1) An analysis of explanations and reasons given for the recent spate of incidents in Scottish prisons, which then, after criticism of these, develops the idea of the need for 'control risk profiles' of individuals
- (2) An explication of plans for the future pattern of specialised units for 'difficult' prisoners in the Scottish Prison Service
- (3) A very brief update on C & C.

We shall analyse in some detail the main proposals in A & C in the course of our critical assessment of the two documents.

Critical Assessment

It is important to examine how C & C and A & C fit together. Indeed, as we shall make clear, the proposals contained in A & C alter the status and potential effects of those in C & C considered on its own. On the publication of C & C, despite our misgivings about the lack of specification of the task of the SPS and the open-ended treatment of aims and objectives, we felt relatively hopeful. However, the publication of A & C altered our initial assessment.

A & C begins with a consideration of the reasons that have been given by inmates for the recent spate of disturbances in Scottish prisons. The reasons examined are: ill-treatment by staff; overcrowding and conditions of accommodation; changes in parole policy; quality of regimes and availability of privileges; the remoteness of Peterhead and the difficulties this creates for visits. Except for the remoteness of Peterhead, which is left open, all these reasons are rejected. However, the reasoning in the Report is rather suspect. First, the 'logic' involved is remarkably unsociological and unscientific. The analysis infers from the possible (or known) consequences of an act that it was not rational for the actor to engage in it. This presupposes a particular kind of rationality, which is then used to evaluate explanations for observed forms of social action. The two examples below illustrate this well.

'The changes in parole policy introduced in 1984 have been cited as a third reason behind the recent incidents. It is alleged that the introduction of the new policy led to a "loss of hope" on the part of many long-term inmates. Irrespective of the fact that all cases continue to be seen by the Parole Board with the same frequency as previously, so that the Board has the opportunity to make a case for exceptional circumstances, it is puzzling that inmates allegedly protesting about their release prospects should take part in action which is likely to have the effect of extending the period they spend in custody (either through loss of remission or award of additional sentences). It is also noticeable that the incidents continued even after the Secretary of State's announcement, in December 1987, of a thorough review of parole policy in Scotland under the chairmanship of Lord Kincaid' (para.2.5.3)

'Quality of regimes and availability of privileges have on occasion been advanced as reasons for particular incidents. But again, the practical effect of a major incident is likely to be simply that regimes and privileges are further restricted, even if temporarily, while staff restore the necessary control' (para. 2.5.4).

In both cases the conclusions are the same – protesting against changes in parole or against the quality of regimes or the availability of privileges is irrational, therefore changes in parole policy, the quality of regimes and the availability of privileges do not constitute explanations for the incidents.

Second, A & C transforms 'reasons' – a non-judgmental characterisation – into 'justifications':

'In themselves, the various *reasons* which have been given by inmates as *justification* for the incidents do not, on investigation, give any *justification* at all for the actions taken' (para.2.6: our emphasis).

It would, of course, be quite proper to cite all the reasons given as possible explanations for a pattern of events without arguing that they justified the events. Explanations and justifications are not necessarily related.

The rejection of these 'reasons' allows the paper to argue that the explanation for disruption lies with the individual.

'rather than looking to changes in the way in which the Prison Service as a whole goes about its task (although clearly this is an area which must be kept under review) a more productive approach may be to concentrate attention on the individual personality and "repertoire" of particularly disruptive and violent inmates' (para.2.11).

A & C attempts to provide a profile of this type of inmate, maintaining that

'violent and disruptive prisoners tend to display a combination of the following features' (para.2.12).

The list of features comprises: a hostile attitude towards authority; an inability to come to terms with their sentence or its length; the experience of being separated from their families; peer group pressure from the criminal community; an inability to live to order; the intensifying effect of the prison environment; drugs; and personality disorder. This catalogue is quite incoherent in its own terms in that it covers personality attributes, experiences, attitudes and behaviour. Thus, it is hard to envisage it forming the basis of the set of diagnostic tests proposed in A & C.

By adopting this strategy, the 'problem' for the SPS becomes that of identifying those prisoners who *potentially* exhibit these features in order to remove them from the mainstream of prison life. In order to do this, prisoners need to be continuously assessed. The link back to the proposals made in C & C is clear. The use which is envisaged for continuous assessment in A & C undercuts the worthwhile aspects of this strategy outlined in C & C. In addition, it is clear that the SPS is planning a substantial expansion of 'alternative units' to accommodate these 'violent and disruptive' prisoners.

Until last year, four such units which could hold a total of 78 prisoners were available as follows:

Aberdeen	5	
Barlinnie	8	Special Unit
Inverness	5	Segregation Unit
Peterhead	60	10-cell unit: B Hall, Separate cells, A Hall
<hr/>		
Total	78	

Last year, a further 60 places were added when Shotts E Hall re-opened as a 'half-way house' to hold and assess 'difficult' prisoners moving to or from Peterhead. This brought the total to 138 places but five additional places have now been opened in Perth E Hall and twelve are under construction in a new unit at Shotts (see below). This would bring the total to 155 places. However, A & C announces that plans are in hand for sixty more places in a large maximum security unit at Shotts and possibly another sixty in a similar unit at Peterhead, although the latter may replace some of the sixty already there. Assuming that the 10-cell unit, which opened in 1984, is retained, but that the rest of Peterhead is de-commissioned or used for other purposes (an optimistic assumption in the light of past experience and current

trends), this would lead to an increase of 70 over the number of places available earlier this year and an overall total of 225 places.

It seems clear that the SPS is set on this expansionist course without being clear about the exact number of places that it will require. Indeed, according to A & C:

'Previous surveys, in October 1983 and January 1985, have suggested that the Scottish Prison Service requires between 100 and 200 places for maximum security or enhanced control of previously or potentially violent or disruptive adult male inmates' (para.3.4)

The current proposals exceed the maximum cited here.

However, despite being set upon an expansionist course, A & C provides little information about the nature of the regimes which are to be operated in these different units. There are some positive hints; for example the report says that 'A new unit for long-term inmates, drawing on the experience of the Barlinnie Special Unit, is being developed at Shotts prison' (para.1.15). Moreover, aspects of the regime for this unit are considered further in para.9.12. Despite this, we feel that our general point holds good. The only reference to the regimes in the large maximum security units at Shotts and Peterhead is to 'the most stringent conditions of security and control' (para.8.4.2). We believe that this relates to the central problem we identified with C & C, that is the failure adequately to specify the aims and objectives of the SPS or to achieve a balance between the different aspects of the 'task'. One result of this is that the SPS is unable to detail the relationship between the task and the prison regimes which should give effect to it.

This applies with particular force to regimes in the units for 'difficult and disruptive' prisoners. A further problem relates to the size and location of these units. Having rejected without much argument, the Chief Inspector's recommendation for four new units of 15 places each⁽¹⁵⁾, A & C opts instead for one or more 60 place units but ignores the problems of managing units of this size. Moreover, although the report states that the physical planning of the units 'must obviously be based upon detailed planning and design of regime, routine and operation' (para.8.8.3), it seems clear that the physical planning of the units is already in hand, while no evidence of detailed thinking about the regimes can be found in A & C. It would seem that the SPS has, despite a ritual of genuflection towards the primacy of regimes, not really learned the lessons of Glenochil (as outlined in the Chiswick Report)⁽¹⁶⁾, namely that the design of an establishment imposes a powerful influence on prison regimes and routines.

Analysis and Explanation

Three criticisms call for expansion: first, the implications for justice; second, the expansion of control and surveillance; and, third, the centralising tendency revealed in these documents.

(1) Justice implications

In certain respects it looked, with the publication of C & C, as if the SPS was moving in the direction of the 'justice' model of imprisonment⁽¹⁷⁾ or, as others have described it, towards some kind of 'normalisation' of the prison.⁽¹⁸⁾ Examples of this are the commitment, as part of the task of the SPS 'to provide for prisoners as full a life as is consistent with the facts of custody', 'to enable prisoners to retain links with family and community' and give a measure of choice to LTPs about initial allocation. Rehabilitation is more or less absent. Elements of 'justice' type thinking can be seen in the desire to update the prison rules and standing orders, to plan sentences in dialogue with the prisoner and in the attempt to ensure some kind of parity of regimes, so that, as far as possible, prisoners serving similar sentences and at similar stages of sentence are treated more or less equally. However, this direction and these elements are undercut by some of the arguments in A & C and indeed by its general philosophy. Take the following for example:

'The priority is prevention and this means that judgements have to be taken which anticipate possible or intended trouble. The test of preventive measures cannot be "proof beyond a reasonable doubt" because the only such proof would be the actual occurrence of the events which it is hoped to prevent. Necessary intervention in advance of anticipated trouble, therefore, will always be open to objections that it is unfair or unreasonable'.

The abandonment of criteria of proof proposed here infringes the very basis of claims to justice in practice. Two sets of criticisms can be advanced: first, that the SPS can be criticised on justice grounds, even if what is proposed is possible; and, second, that in practice there are no grounds for believing that the form of assessment the SPS proposes is possible. The initial thinking is, as we have pointed out earlier, woolly and the mechanisms for carrying out the exercise are unlikely to lead to the development or specification of reliable or valid diagnostic tests in practice.

(2) Expansion of control and surveillance

The centrality of control and surveillance in modern penal and criminal justice systems has been emphasised by many commentators,⁽¹⁹⁾ but the effectiveness of these strategies has often been overstressed. Other analysts⁽²⁰⁾ have pointed to the importance of work for the maintenance of control in prison and there clearly exists a wide variety of control practices. In any case, the eruption of prison disturbances shows that control is not all

powerful. That said, however, the proposals in A & C do seem to propose an extension of strategies of control and surveillance. Given the arguments we have just made about the absence of justice, this is particularly worrying. What seems to be happening here is an example of processes that Stanley Cohen has identified as 'widening the net' and 'thinning the mesh'.⁽²¹⁾ The net is widened by more prisoners being directly addressed by the attentions of the assessors and report writers. The mesh is thinned as the procedures get tighter with fewer people slipping through the net.

(3) Centralisation

The thrust of both A & C and C & C is toward greater central control within the prison system. However, we should be wary of overstressing the degree to which this is possible. We have argued elsewhere that the SPS is a site of power struggles which are expressed in and affected by different forms of discourse.⁽²²⁾ We restrict ourselves here to briefly introducing the main features of our analysis. We think that there are three discourses of administrative justice (concerned with the 'means' of imprisonment): Bureaucratic, associated with civil servants; professional, associated with prison governors; and legal, associated with the courts. We maintain further that there are three discourses of substantive justice (concerned with the ends of imprisonment): control, normalisation and rehabilitation. C & C reflects the confluence of bureaucratic and normalisation discourses while A & C is a product of the mixing of bureaucratic and control discourses. However, taken together, the normalising tendencies in C & C are undercut by the control tendencies in A & C.

One of the benefits of the approach we take is that it enables light to be shed on struggles and contradictions within the prison service. The two documents have only been 'published' in a rudimentary way (they are not available from HMSO and few outsiders would know how to obtain them) because they are primarily for internal consumption and can best be seen in the context of the conflict between civil servants seeking greater central control and governors seeking to retain as much local autonomy as possible.

Comparisons with England and Wales

In September 1983, the Home Secretary established a Working Party, the Control Review Committee (CRC), with the following terms of reference:

'To review the maintenance of control in the prison system, including the implications for physical security, with particular reference to the dispersal system, and to make recommendations'.

The CRC's members were a mixture of Prison Department officials

and senior prison governors. In their Report, *Managing the Long-Term Prison System*⁽²³⁾ the Committee reviewed the long history of serious disturbances and riots which the (English) dispersal system had experienced. The Report noted that, in general, the existing dispersal prisons did not lend themselves to dealing with prisoners in small groups; that they tended to operate an undifferentiated regime for prisoners on ordinary locations; and that the combination of such a regime and the relatively large units that characterise dispersal prisons made such establishments vulnerable to disruption. It also identified a lack of sufficient incentives to long-term prisoners to behave well and of disincentives to bad behaviour, and a lack of facilities for dealing with long-term prisoners who persistently presented disruptive behaviour in dispersal prisons.

The CRC concluded that arguments would inevitably favour dispersal rather than concentration as long as the debate was conducted within constraints dictated by existing concepts of prison design, and went on to advocate the 'new generation' of prison design current in the USA.⁽²⁴⁾ However, in the short to medium term, they recommended two complementary sets of initiatives. First, they proposed a package of recommendations designed to improve the structure of the long-term prison system in a way that would encourage the prisoner to co-operate. They considered this could best be achieved by giving all long-term prisoners (defined as those serving over 5 years) individual career plans, through the development of a more structured system incorporating activities that are geared towards the abilities and needs of the inmate, and in which incentives would make progression (and down-grading) through the system a consistent and psychologically credible process. However, for those inmates who cannot or will not respond to the inbuilt incentives of a better structured system, and who continue to present a serious threat to the stability of the long-term prison, they recommended the establishment of a system of small specialised units. The CRC did not specify how many units would be required or precisely what their regimes or size should be, but recommended that a programme of research be established with the help of outside academics to meet this need.

When the CRC Report was published in July 1984, one of the Home Secretary's first actions was to establish a Research and Advisory Group (RAG) on the Long-Term Prison System. The RAG Report, *Special Units for Long-Term Prisoners: Regimes Management and Research*⁽²⁵⁾ proffers advice to the Prison Department on the development of special units and the establishment of a related research programme. Thus, it considers many of the same issues that *Assessment and Control* addressed a year or two afterwards.

(1) The identification of 'difficult prisoners'

The RAG took the view (as did the CRC) that prisoners present control problems for many different reasons.

'Difficult prison behaviour is a function of many factors in addition to the prisoner's own character; these factors can include, on occasion, inappropriate prison regimes or mistaken handling of prisoners by staff. Except perhaps in the case of those prisoners whose behaviour is the product of mental disturbance or abnormality, all our experience suggests that most "troublesome prisoners" present control problems only at particular times or in particular contexts' (para.33).

The RAG commissioned research by the Prison Department Directorate of Psychological Services designed to test whether or not it was possible to identify this hypothetical group of prisoners. This appeared to confirm that some long-term prisoners are more difficult than others and that their behaviour is not simply a reaction to their particular environment. However, the marked lack of agreement between those who were asked to identify prisoners presenting control problems indicates that prisoners may behave very differently in different environments and at different stages of their sentence.

(2) The number of difficult prisoners

Research carried out for the RAG by the Prison Department Directorate of Psychological Services found that 226 and 127 long-term prisoners were identified as 'troublesome' by various sources in the prison system on two successive trawls. However, the RAG Report argues that the fact that 200 prisoners were identified as 'troublesome' at a particular time does not imply that they all display such serious or persistent control problems as to warrant their transfer to a special unit (para.90) and concludes that it will be sensible to aim to establish no more than 100 special unit places in the first instance and to create more only if the need is subsequently shown to exist (para.93).

(3) Regimes for small units

The RAG agreed with the CRC that different units should complement each other and recommended that the regime brief for each unit should be laid down centrally in accordance with a centrally planned strategy (para.42). Although the details of each unit's regime would be drawn up locally, the development of each unit would be centrally overseen and monitored. The RAG endorsed the CRC's view that units should not be punitive, that conditions should, as far as possible, resemble those in normal long-term prisons, and that the aims and objectives of individual units should be available to all (including inmates) who wished to see them. Given the present state of knowledge, the RAG could not specify an ideal size for special units or predict with confidence what kind of regime would

work best with a particular kind of prisoner. It recommended a pragmatic strategy in which a range of different units would be set up and monitored.

'We should like to see the establishment of a range of special units, each characterised by differing kinds of specialist assistance and further characterised by varying degrees of structure and by the nature of the staff/inmate interactions which they facilitate and encourage (particularly by the extent to which inmates are involved in the running of the unit and/or in finding ways of modifying their own problem behaviour). Four or five different regimes should provide sufficient variety in the first instance. Further units could then be added in the light of what evaluation revealed about which kinds of regimes "work best"' (para.87).

The RAG Report concludes in a rather novel way by recommending a programme of research to develop a more refined sociological understanding of the ways in which interactions between prisoners and the prison diminish or exacerbate problem behaviour by prisoners. The hope is that the results of this research could be applied to the construction of a special unit regime which treats the interaction of staff and inmates as being a central issue in the genesis or avoidance of problem behaviour by prisoners (paras. 79 and 80).

Although the two Scottish reports (C & C and A & C) and the two English reports (the CRC Report and the RAG Report) address the same set of issues, it is clear that they do so in very different ways. While the problem for the Scottish reports was to identify prisoners who were *potentially* disruptive in terms of a fairly incoherent set of predictive factors, the English reports emphasised that prisoners behaved differently in different environments and sought only to identify those prisoners who had *actually* been seriously or persistently troublesome. Thus, the English proposals are less open to criticism on justice grounds than the Scottish proposals. Although both pairs of reports advocate sentence planning for long-term prisoners, routine assessments would be used to identify troublesome prisoners and allocate them to special units in Scotland but would not have this function in England and Wales. While C & C in Scotland advocates parity of regimes between those establishments in which long-term prisoners would spend the large part of their sentence, RAG in England favours a more diversified set of regimes and the matching of individual prisoners to regimes which could meet their needs and requirements. This difference, and the importance with the RAG attached to contextual and interpersonal determinants of problem behaviour, means that special units play a much smaller role in the English proposals than in the Scottish ones. While Scotland, with a total prison population of some 5,000 inmates was urged to build special units for 200 prisoners, England, with a prison population 10 times larger, was recommended to build special units for half that number of prisoners. Finally, while the English reports

favour the development of a variety of special unit regimes in a number of different settings and advocate a key role for research in the development and monitoring of these regimes, the primary emphasis in the Scottish reports is to 'the most stringent conditions of security and control'. Thus, compared with the Scottish proposals, the English proposals do not entail a comparable expansion of control and surveillance. Under the Scottish proposals, diagnostic tests would be used to predict control risks; and some 200 potentially violent and disruptive prisoners would be segregated from a largely undifferentiated set of mainstream establishments and accommodated in a number of special units where the regimes would, in the main, be highly repressive and very restrictive. Under the England proposals, on the other hand, troublesome prisoners who cause control problems would be moved around a more highly differentiated set of mainstream establishments; and very much smaller proportion of prisoners (totalling perhaps 100 in a prison system ten times the size of that in Scotland) who exhibit 'serious or persistent control problems in a variety of environments' would end up in special units offering different kinds of specialised assistance and a variety of different regimes to suit prisoners with different needs and requirements.

If *Assessment and Control* had been published before the two English reports, these differences would have been excusable. However, this was not the case. The more sophisticated CRC and RAG Reports appear to have been ignored by policy makers in Edinburgh, despite Scottish Prison Service representation at the 1986 Cropwood Round-Table Conference on 'Problems of Long-Term Imprisonment', which followed-up the CRC Report.⁽²⁶⁾ Not for the first time, Scottish policy makers appear to have buried their heads in the sand and, by failing to take note of developments South of the Border (to say nothing of developments across the seas) have produced a blueprint for the future of Scottish prisons that is both poorly thought out and quite frightening in some of its implications.

All is not perfect South of the Border. Sadly, but perhaps predictably, the Home Office's response to the CRC Report is seriously constrained by parameters set by control discourse. The proposals for sentence planning are the subject of still further deliberation and the first special unit for disruptive prisoners does not appear to build on the more progressive elements in the Barlinnie Special Unit regime as envisaged in the CRC and RAG Reports. However, point is that Scottish policy-makers could have learned a great deal from the rather sophisticated Home Office Reports and that their failure to do so may well have serious implications for the future of imprisonment in Scotland.

Conclusion

In 1980, Tony Bottoms characterised the future direction of prison policy in terms of 'bifurcation'.⁽²⁷⁾ He wrote as follows:

'If I were asked to guess at the likeliest actual shape of future penal policy (regardless of the question of desirability), then I would guess that bifurcation will play a key role. At the serious end of the dichotomy, there will be the "dangerous", who will be on the one hand those regarded as very disturbed, and on the other, those regarded as straightforwardly wicked (i.e. respectively, the "mad" and the "bad"). For the remainder of the offenders, there will be an attenuation of penalties, a progressive abandonment of rehabilitation, a reduction of discretion in sentencing and parole, and a move towards either regulatory or compensating penalties' (p.17).

We have some sympathy with his analysis and, in an earlier paper followed this line of argument.⁽²⁸⁾ However, it seems to us that 'bifurcation' does not fully describe the Scottish proposals discussed here in that it visualises a segregation of 'difficult' or dangerous prisoners from the mainstream but does not adequately consider the implications of the process of segregation for the mainstream. It is our rather pessimistic conclusion that the tight assessment and close surveillance of long-term prisoners in 'mainstream' establishments which is entailed by the expansion of special units and facilities for the minority who will be accommodated in them, will largely determine the character of the entire Scottish Prison Service, and that the proposals in *Assessment and Control* largely undermine the positive aspects of those in *Custody and Care*.

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References

1. Home Office, *Report of the Committee of Inquiry into the United Kingdom Prison Services* (May Report), Cmnd.7673, London: HMSO, 1979.
2. See, for example, Norval Morris *The Future of Imprisonment*, Chicago: University of Chicago Press, 1974 and Roy King and Rod Morgan *The Future of the Prison System*, London: Gower, 1980.
3. Richard Kinsey 'The Politics and Ideology of the Prison Crisis' in David McCrone and Alice Brown (eds) *The Scottish Government Yearbook 1988*, Edinburgh: Unit for the Study of Government in Scotland, 1988, pp.103-122.
4. Sheriff Gordon Nicholson 'Do we need to jail so many?' *The Scotsman* 13 October 1987. The data in this article are based on statistics published by the Council of Europe.
5. Scottish Home and Health Department 'Prison Statistics Scotland 1987' *Statistical Bulletin* No.7/1988.
6. Phil Scraton, Joe Sim and Paula Skidmore 'Through the Barricades: Prison Protest and Penal Policy in Scotland' *Journal of Law and Society* Vol.15 No.3 Autumn 1988 pp.247-262.

7. Rt. Hon. Malcolm Rifkind 'Penal Policy: The Way Ahead' *The Howard Journal of Criminal Justice* Vol.28 No.2 May 1989, pp.81-90.
8. Scottish Prison Service *Custody and Care: Policy and Plans for the Scottish Prison Service*, Edinburgh: Scottish Office, March 1988.
9. Scottish Prison Service *Assessment and Control: the Management of Violent and Disruptive Prisoners*, Edinburgh: Scottish Office, October 1988.
10. Scottish Home and Health Department *Fines and Fines Enforcement: a Consultation Paper*, Edinburgh: Scottish Office, 1988.
11. Scottish Home and Health Department *Report of the Review Committee on Parole and Related Issues in Scotland* (Kincaid Report) Cm.598 Edinburgh: HMSO, 1989.
12. This may be because a small reduction in the prison population and a period of relative calm in the prisons have taken the pressure off the management of the Scottish Prison Service. However, this is only conjecture.
13. Michael Adler and Brian Longhurst, 'Discretionary Decision-Making in the Scottish Prison System' *End of Award Report to the Economic and Social Research Council on Grant No.EO6250031*, 1988 (copies available from the authors or from the ESRC).
14. See, also, Michael Adler and Brian Longhurst 'The Classification of Long-term Prisoners in Scotland' in Ed Wozniak (ed) *Current Issues in Scottish Prisons: Systems of Accountability and Regimes for Difficult Prisons* Central Research Unit Discussion Papers Edinburgh: Scottish Office, forthcoming and John McNeill 'Classification Procedures in Scottish Prisons: Sweeties for the Good Boys' in Simon Backett, John McNeill and Alex Yellowlees (eds) *Imprisonment Today: Current Issues in the Prison Debate* London: Macmillan 1988 pp.36-52.
15. Her Majesty's Chief Inspector of Prisons (Scotland) *Report of the Inquiry into Prisoner Grievances at H M Prison Peterhead* Edinburgh: Scottish Office 1987.
16. Scottish Home and Health Department *Report of the Review of Suicide Precautions at HM Detention Centre and HM Young Offenders Institution Glenochil* (Chiswick Report) Edinburgh: HMSO, 1985.
17. See American Friends Service Committee *The Struggle for Justice*, New York: Hill and Wang 1972; Norval Morris, *op cit*; Andrew von Hirsch *Doing Justice: the Choice of Punishments*, New York; Hill and Wang, 1976; and Barbara Hudson *Justice through Punishment: a Critique of the Justice Model*, London: Macmillan, 1987.
18. Roy King and Rod Morgan, *op cit*.
19. See, for example, Michel Foucault *Discipline and Punish: the Birth of the Prison*, Harmondsworth: Penguin Books, 1979; and Stanley Cohen *Visions of Social Control: Crime, Punishment and Classification*, Cambridge: Polity Press, 1985.
20. Russell Dobash 'Labour and Discipline in Scottish and English Prisons: Moral Correction, Punishment and Useful Toil', *Sociology*, Vol.17, No.1, February 1983, pp.1-27.
21. Stanley Cohen 'The Punitive City: Notes on the Dispersal of Social Control' *Contemporary Crises* Vol.3 1979 pp.339-363; and Tony Bottoms 'Neglected Features of Contemporary Penal Systems' in David Garland and Peter Young (eds) *The Power to Punish: Contemporary Penalty and Social Analysis*, London: Heinemann, 1983 pp.166-202.
22. Michael Adler and Brian Longhurst 'Power, Discourse and Justice: Prisons in Scotland Today', paper presented at the Annual Conference of the Research Committee on Sociology of Law of the International Sociological Association, University of Bologna, June 1988; and 'Towards a New Sociology of

- Imprisonment: Prison Discourse Today', paper presented at British Criminology Conference, Bristol Polytechnic, July 1989.
23. Home Office *Managing the Long Term Prison System: the Report of the Control Review Committee* London: HMSO 1984.
 24. See Roy King 'New Generation Prisons, the Prison Building Programme and the Future of Dispersal Policy' in Anthony E. Bottoms and Roy Light (eds) *Problems of Long-Term Imprisonment*, London: Gower, 1987, pp.115-138.
 25. Home Office *Special Units for Long-Term Prisoners: Regimes, Management and Research: a Report by the Research and Advisory Group on the Long-Term Prison System*, London: HMSO, 1987.
 26. Anthony E. Bottoms and Roy Light (eds) *op cit*, pp.326-327.
 27. Anthony E. Bottoms 'An Introduction to "The Coming Crisis"' in A E Bottoms and R H Preston (eds) *The Coming Penal Crisis: a Criminological and Theological Exploration*, Edinburgh: Scottish Academic Press, 1980 pp.1-24.
 28. Michael Adler and Brian Longhurst 'The Classification of Long-Term Prisoners in Scotland', *op cit*

POWER POLITICS: THE IMPLICATIONS FOR NUCLEAR POLICY AND ELECTRICITY IN SCOTLAND 1973-89⁽¹⁾

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In the years after 1973 the energy situation in the major industrialised countries of Western Europe was transformed. The massive rise in oil prices inevitably led to policies which drastically reduced the use of oil, both in power stations and industry, and the shift to nuclear power for electricity generation was a trend that could be described as ineluctable. At the same time, for a combination of reasons, the imports of coal into the EEC by multinational energy companies sharply increased. It followed that the demand for indigenous steam and coking coal was steadily, and quite sharply reduced, and by the early eighties the mining industries of the Community faced one crisis after another. At the end of the decade deep-mined coal was virtually extinct in Belgium, in certain important regions in France, and over much of the UK including Scotland. The timetable for completion of the 1992 EEC internal market saw further directions to this coal rundown. Energy is a crucial part of the overall economic policy the EEC will impose on member states in the nineties, and EEC policies are pro-nuclear and coal imports from multinational energy companies (MECs), and anti-EEC mined coal. But the eighties has also seen the first serious questioning in Europe of the economics of nuclear power. There has been a halt to most nuclear power stations (p/s) in the EEC apart from the UK and France. By 1988 all nuclear plant in Italy had been closed, and several countries announced that no further nuclear power stations would be built.

This is the background to the UK discussions of the real costs of nuclear power. The public enquiries into Sizewell B and Hinckley C and the debates over the planned privatisation of electricity has forced into the open more realistic estimates of nuclear p/s costs, and a drastic revision of comparative total costs which show they are far more expensive than coal p/s, with costs which will continue long after closure. Under pressure from the City of London, who have a major say as to which parts of the industry are marketable, the nine Magnox reactors were withdrawn from the sale, and guarantees given for the remaining nuclear plant. This contradicts all previous cost claims by the Central Electricity Generating Board (CEGB) and the Department of Energy (DEn) and must imply a revision of how we look at the history and economics of electricity, not only in the UK but in every EEC country with nuclear power. Apart from France this process is well under way.